

In the Supreme Court of the United States

OCTOBER TERM, 1964

No. 265

**WILLIAM ALBERTSON AND ROSCOE QUINCY PROCTOR,
PETITIONERS**

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD

**ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA
CIRCUIT**

**MEMORANDUM FOR THE RESPONDENT SUGGESTING THAT
THE CAUSE IS MOOT WITH REGARD TO PETITIONER
ALBERTSON**

The Attorney General brought this proceeding against petitioner Albertson by filing a petition with the Subversive Activities Control Board for an order requiring him to register as a member of a Communist-action organization, *i.e.*, the Communist Party. The petition alleged that: (1) a final order requiring the Communist Party to register under Section 7(a) of the Act as a Communist-action organization was in effect; (2) more than sixty (60) days had elapsed since the order became final, but the organization had not registered with the Attorney General; and (3) pe-

(1)

tioner was then a member of the Communist Party and was therefore required to register with the Attorney General under Section 8 of the Act, but had failed to do so (J.A. 2-5). The Board, after full hearing, found petitioner Albertson to be a member of the Communist Party and ordered him to register (J.A. 26). The court of appeals upheld the order.

Subsequent to the decision of the court of appeals, on July 7, 1964, the official Communist Party newspaper, "The Midweek Worker," announced that the New York State Communist Party had expelled petitioner Albertson "after a thorough investigation and on the basis of irrefutable evidence, that William Albertson has operated as a police agent * * *."

From this and other information, the government is satisfied that petitioner Albertson has in fact been expelled from the Communist Party in substance as well as form, and is therefore no longer a "member." Thus the factual basis of the order to register, which has not yet become final, has been eliminated. When circumstances have changed so that the moving party is no longer entitled to the relief which it seeks, only an abstract question is still presented for decision. In such a situation, which no case or controversy remains, the case is moot. *United States v. Alaska S.S. Co.*, 253 U.S. 113, 115-117.

We respectfully submit that the petition for a writ

¹The complete text of the article is set forth in the Appendix, pp. 4-5 below. Albertson denied the Party's allegations which were the basis for the expulsion. Whether the Party or Albertson is correct is immaterial to the question of mootness.

of certiorari with regard to petitioner Albertson be granted, the judgment of the court of appeals with regard to him be vacated, and the case remanded to that court with directions to vacate the order of the Board as moot.

ARCHIBALD COX,
Solicitor General.

J. WALTER YEAGLEY,
Assistant Attorney General.

KEVIN T. MARONEY,
LEE B. ANDERSON,
Attorneys.

AUGUST 1964.

APPENDIX

The Worker, July 7, 1964, p. 8

N.Y. COMMUNISTS DENOUNCE ALBERTSON AS INFORMER

The Communist Party of New York State, after a thorough investigation and on the basis of irrefutable evidence, has disclosed that William (Bill) Albertson has operated as a police agent within the ranks of the party. Assiduously covering up his nefarious activity, Albertson succeeded in attaining a position of trust and responsibility. With callous and malicious intent he violated the confidence entrusted in him to perform the role of stool pigeon and informer against those whom he called his comrades, his friends, men and women who are devoted fighters for peace, freedom and equality.

Because the facts accumulated remove every shadow of doubt that Albertson lived a life of duplicity and treachery—posing as a dedicated defender of the workers' interests while in actuality betraying them—the Communist Party of New York State has expelled him.

It should come as no shock to Communists that the ruling circles in the United States employ the tactic of infiltrating working class and people's organizations to cause dissention and disunity, to spread lack of confidence in their own strength and in leadership, hoping thereby to defeat the people's struggles. Thus, in addition to open reactionary assaults on the Communist Party and other people's organizations through imprisonment and persecutions, witch-hunts and economic pressures, and endless legal harassments and litigations, the ruling class attempts to penetrate

working class organizations. Clearly, the Communist Party, the most consistent champion of the people's welfare, would be chosen as a special target precisely because its policies and activities conform to the people's vital needs and aspirations and the fundamental interests of our nation.

The exposure of so highly-placed a police agent as Albertson is but another proof that the ruling class will not succeed. With courage and determination American Communists withstood the years of McCarthyism and are now heroically battling McCarranism. They will with the same loyalty and dedication overcome the momentary dislocation created by the activities of such an agent and provocateur as William Albertson.

In exposing and denouncing Albertson, the Communist Party of New York State has the full and unflinching support of its membership and of all democratic forces who have been confronted with the work of stool pigeons and informers in their own organizations.

WILLIAM L. PATTERSON.
ROBERT THOMPSON.